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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/977,467	10/15/2001	Ralph Thomas Beeston	TUC920010053US2B	5379

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DALE F. REGELMAN
LAW OFFICE OF DALE F. REGELMAN
4231 S. FREMONT AVENUE
TUCSON, AZ 85741

EXAMINER

NGUYEN, THAN VINH

ART UNIT	PAPER NUMBER
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2187

DATE MAILED: 08/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/977,467

Applicant(s)

BEESTON ET AL.

Examiner

Than Nguyen

Art Unit

2187

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

1. Claims 1-42 are pending.

Information Disclosure Statement

2. The IDS, filed 7/15/02, has been considered.

Double Patenting

3. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

4. Claims 1-42 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-36 of copending Application No. 09/968,590. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

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6. Claims 1-42 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-42 of copending Application No. 09/968,591. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

8. Claims 1-3,15-17,29-31 are rejected under 35 U.S.C. 102(a) as being anticipated by Applicant's Admitted Prior Arts (Figures 6A-6E,9), hereinafter as AAPA.

As to claims 1,15,29:

9. AAPA teaches applicant's scheme of writing information to a data storage tape medium. AAPA teaches receiving a first command to record first information on the data storage medium (inherent since data is requested and written to tape storage 600; pg. 12, lines 3-22); receiving the first information (inherent; pg. 12, lines 3-22); moving the data storage medium in a first direction (move tape 600; pg. 12 lines 15-22); recording the first information beginning at a first time on the data storage medium (record data; step 930); receiving a deferred conditional write tape mark

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command (DTM command; Figure 9; pg. 13 14-20); and setting a deferred conditional tape mark indicator (EOF indicator 640; Fig. 6A; pg. 12 lines 3-8).

** For purposes of examination, the Examiner gave the broadest interpretation of a DCWTM command as a WTM since Applicant did not give any special function to the DCWTM command. The DCTMI is interpreted as a tape mark since Applicant did not give specific functions to the DCTMI. **

As to claims 2,16,30:

10. AAPA teaches the information comprises a first header label group; a first data; and a first trailer label group(Fig. 6C).

As to claim 3,17,31:

11. AAPA teaches writing the first header table group (681; Fig. 6C); first tape mark (682); first data (283); second tape mark (684); first trailer label group (685); and third tape mark (686).

Allowable Subject Matter

12. Claims 4-14,18-28,32-42 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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13. As to claims 4,18,32 the prior art of record does not teach specifying a deferred conditional tape mark indicator time interval and maintain the first deferred tape mark indicator during the deferred conditional tape mark indicator time interval.

14. Claims 5-9,19-20,33-42 are also allowable for incorporating the limitations of claim 4/18/32, and further limitations.

15. As to claim 10, 24 the prior art of record does not teach receiving a second command, wherein the second command causes motion of the data storage medium in a second direction or causes synchronization of the data storage medium; resetting the first deferred conditional tape mark indicator; disposing a double tape mark on the data storage medium by writing a fourth tape mark adjacent to the third tape mark; moving the data storage medium in a second direction; and positioning the read/write head between the third tape mark and fourth tape mark.

16. Claims 11-14,25-28 are also allowable for incorporating the limitations of claim 10/24 and further limitations.

17. As to claims 21, the prior arts of record does not teach receiving a second command at a third time to record second information on said data storage medium, wherein the time interval between said second time and said third time is less than said deferred conditional tape mark indicator time interval; receiving said second information; resetting said first conditional deferred tape mark indicator; moving said data storage medium in a first direction; recording said second information on said moving data storage medium; receiving a second deferred conditional write tape mark command; setting a second deferred conditional tape mark indicator at a fourth time;

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moving said data storage medium only in said first direction during the time interval between said first time and said fourth time.

18. Claims 22-23 are also allowable for incorporating the limitations of claim 21, and further limitations.

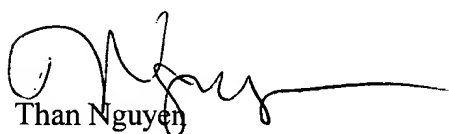
Conclusion

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Than Nguyen whose telephone number is (703) 305-3866. The examiner can normally be reached on M-F from 8:00 a.m. to 3:00 p.m. EST.

21. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-9600.

22. The fax phone number for Art Unit 2187 is 703-308-9051 or 703-308-9052.


Than Nguyen

Primary Patent Examiner

August 21, 2003